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Constitutional Amendments and Judicial Review

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The Constitution of India, which was formally adopted by the Constituent Assembly on 84
November 26, 1949, is frequently described by legal scholars as a living and organic 169
document. Unlike a rigid legal statute, a living constitution possesses the inherent 254
flexibility to adapt to the changing socio-economic realities and political aspirations of 345
a developing nation over time. Article 368 of the Constitution specifically grants the 432
Parliament the legislative authority to amend its provisions, provided that such 513
modifications strictly adhere to the prescribed parliamentary procedures. Over the 596
past seven decades, the document has been amended more than a hundred times to 675
address various administrative challenges and expand the scope of fundamental 753
rights. One of the most comprehensive and controversial modifications was the 42nd 836
Amendment Act, passed during the national emergency in 1976. This extensive 912
legislation, often referred to as a "mini-constitution," introduced several significant 1000
changes, including the insertion of the words "Socialist" and "Secular" into the 1081
Preamble, and the addition of Fundamental Duties under Article 51A. However, the 1162
absolute power of the Parliament to amend the Constitution is not entirely 1237
unrestricted. The delicate balance between parliamentary sovereignty and judicial 1319
independence was definitively established by the Supreme Court of India in the 1398
historic Kesavananda Bharati judgment delivered on April 24, 1973. In this landmark 1482
verdict, a constitution bench of thirteen judges formulated the celebrated "Basic 1564
Structure Doctrine." This brilliant jurisprudential innovation essentially declared that 1653
while the elected parliament has broad powers to amend the Constitution, it cannot 1736
alter, destroy, or abrogate its basic foundational features, such as the rule of law, the 1826
principle of free and fair elections, and the independence of the judiciary. This 1908
doctrine acts as a crucial institutional safeguard against any potential authoritarian 1995
abuse of legislative power. Furthermore, the higher judiciary in India exercises the 2080
formidable power of judicial review, which allows the courts to meticulously examine 2165
the constitutional validity of any law passed by the legislature or any administrative 2252
order issued by the executive. If a law is found to be in direct violation of the 2334
fundamental rights guaranteed under Part III of the Constitution, the Supreme Court 2418
has the absolute authority to strike it down as null and void. In recent years, the 2502
judicial system has also witnessed the remarkable growth of Public Interest Litigation 2589
(PIL), a procedural mechanism that allows public-spirited citizens to approach the 2672
courts on behalf of marginalized and underprivileged communities. Despite these 2752
incredible legal advancements, the Indian judicial system continues to grapple with 2836

the severe problem of massive case pendency and delayed justice delivery. Millions of civil and criminal cases remain unresolved in the lower courts, causing immense hardship to ordinary litigants. To resolve this administrative bottleneck, the government and the judiciary are collaboratively implementing the e-Courts project, which aims to digitally transform the entire legal infrastructure, ensure the swift disposal of pending cases, and make the delivery of justice more transparent, affordable, and accessible to every citizen.

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